

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

LORRAINE PARCHMENT,

Plaintiff,

v.

OCWEN LOAN SERVICING,

Defendant.

Civil Action File No.
1:14-cv-01037-CC

**DEFENDANT'S MOTION TO STAY PRE-TRIAL DEADLINES AND
DISCOVERY AND MEMORANDUM OF LAW IN SUPPORT**

COMES NOW Defendant, OCWEN LOAN SERVICING, LLC ("Ocwen"), improperly identified by Plaintiff as Ocwen Loan Servicing, by and through its undersigned counsel, and respectfully moves this Court for an Order staying pretrial deadlines and any further discovery activity set forth in the Federal Rules of Civil Procedure and the Local Rules of this Court, pending a ruling on Defendant's outstanding Motion to Dismiss.

Procedural History

Plaintiff filed her Complaint initiating the instant action in the Superior Court of Henry County, Georgia, on February 28, 2014. Defendant was served with the summons and complaint in this action on March 10, 2014. Defendant removed the action to this Court on April 9, 2014 (Docket No. 01) and

subsequently filed its Motion to Dismiss for Failure to State a Claim on April 15, 2014 (Docket No. 02).

Argument and Citation of Authority

"Matters pertaining to discovery are committed to the sound discretion of the district court." Redford v. Gwinnett County Judicial Circuit, 350 Fed. Appx. 341, 346, 2009 U.S. App. LEXIS 21368, *9 (11th Cir. 2009). "Upon motion by a party, and for good cause shown, a district court can limit discovery and 'make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense'." Moore v. Potter, 141 Fed. Appx. 803, 807, 2005 U.S. App. LEXIS 14070, *10 (11th Cir. 2005).

Facial challenges to the legal sufficiency of a claim or defense, such as a motion to dismiss based on failure to state a claim for relief, should be resolved before discovery begins. Such a dispute always presents a purely legal question; there are no issues of fact because the allegations contained in the pleading are presumed to be true. Therefore, neither the parties nor the court have any need for discovery before the court rules on the motion.

Id., quoting Chudasama v. Mazda Motor Corp., 123 F.3d 1353, 1367 (11th Cir. 1997).

Defendant's Motion to Dismiss Complaint seeks a ruling that Plaintiff's complaint in this matter fails to state a claim upon which relief may be granted. Since this matter may be fully resolved upon this Court's ruling on the outstanding

motion to dismiss, continuing discovery at this time would be pointless. The time and resources that the parties would expend in conducting discovery and in meeting the requirements for the pretrial deadlines would have been spent unnecessarily if the Court finds that the Complaint should be dismissed. *See, Chudasama*, 123 F.3d at 1367-68 (enumerating the costs of discovery to the parties and the court). Furthermore, any delay caused by staying discovery in this matter will be short-lived.

Therefore, Defendant requests that the Court temporarily stay all deadlines required under the Federal Rules of Civil Procedure and the Local Rules of this Court and any further discovery activity pending resolution of Defendant's Motion to Dismiss Complaint.

(Signatures on the next page)

Respectfully submitted this 16th day of April, 2014.

/s/ Scott H. Michalove

Scott H. Michalove

Georgia Bar No. 504016

Montoya McGee

Georgia Bar No. 572105

*Attorneys for Ocwen Loan Servicing,
LLC*

**BAKER, DONELSON, BEARMAN,
CALDWELL & BERKOWITZ, PC**

Suite 1600, Monarch Plaza

3414 Peachtree Rd. NE

Atlanta, Georgia 30326

Ph. 404-577-6000

Facsimile: (404) 221-6501

Email: smichalove@bakerdonelson.com

Email: mho-sang@bakerdonelson.com

CERTIFICATION OF FONT

I hereby certify that the foregoing document has been prepared in 14-point Times New Roman font and complies with LR 5.1(B), NDGa.

This 16th day of April , 2014.

/s/ Scott H. Michalove

Scott H. Michalove

Georgia Bar No. 504016

Montoya McGee

Georgia Bar No. 572105

*Attorneys for Ocwen Loan Servicing,
LLC*

**BAKER, DONELSON, BEARMAN,
CALDWELL & BERKOWITZ, PC**

Suite 1600, Monarch Plaza

3414 Peachtree Rd. NE

Atlanta, Georgia 30326

Ph. 404-577-6000

Facsimile: (404) 221-6501

Email: smichalove@bakerdonelson.com

Email: mho-sang@bakerdonelson.com

CERTIFICATE OF SERVICE

This will certify service of a copy of the foregoing **MOTION TO STAY
PRE-TRIAL DEADLINES AND DISCOVERY AND MEMORANDUM OF
LAW IN SUPPORT** by U.S. Mail upon the following:

Lorraine Parchment, *Pro Se*
1464 Shellnut Court
Hampton, GA 30228

This 16th day of April , 2014.

/s/ Scott H. Michalove

Scott H. Michalove
Georgia Bar No. 504016
Montoya McGee
Georgia Bar No. 572105

*Attorneys for Ocwen Loan Servicing,
LLC*

**BAKER, DONELSON, BEARMAN,
CALDWELL & BERKOWITZ, PC**

Suite 1600, Monarch Plaza

3414 Peachtree Rd. NE

Atlanta, Georgia 30326

Ph. 404-577-6000

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